

NOTICE OF PROPOSED RULEMAKING
NEW SOURCE REVIEW (NSR) FIX-UP RULEMAKING PACKAGE
Maricopa County Air Pollution Control Regulations
PREAMBLE

1. **Rules Affected** **Rulemaking Action**

Rule 210 Amend
Rule 240 Amend
Rule 300 Amend

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing and implementing statutes: Arizona Revised Statutes (ARS) §49-406(G), ARS §49-479, and ARS §49-480.

3. **List of all previous notices addressing the proposed rules:**
 - September 3, 1998 Public Workshop was announced in Maricopa County's 3rd Quarter 1998 Notice of Public Workshops and Hearings and in the Record Reporter on September 2 and 9, 1998.
 - October 29, 1998 Public Workshop was announced in Maricopa County's 4th Quarter 1998 Notice of Public Workshops and Hearings and in the Record Reporter on October 7 and 14, 1998.
 - December 17, 1998 Public Workshop was announced in Maricopa County's 4th Quarter 1998 Notice of Public Workshops and Hearings.
 - December 16, 1999 Public Workshop was announced in Maricopa County's 4th Quarter 1999 Notice of Public Workshops and Hearings and in Maricopa County's 3rd Quarter 1999 Visibility Newsletter and in the Record Reporter on December 8 and 15, 1999.
 - June 15, 2000 Public Workshop was announced in Maricopa County's 2nd Quarter 2000 Notice of Public Workshops and Hearings.

4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Johanna M. Kuspert or Jo Crumbaker, Air Quality Division
Address: 1001 North Central Avenue, Suite #201, Phoenix, AZ 85004
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5. **An explanation of the rules, including the agency's reasons for initiating the rules:**

This rulemaking package is called the **New Source Review (NSR) Fix-Up Rulemaking Package**; It includes Rule 210 (Title V Permit Provisions), Rule 240 (Permits For New Major Sources And Major Modifications To Existing Major Sources), and Rule 300 (Visible Emissions).

The revisions proposed to Rule 210 correspond with the Arizona Department Of Environmental Quality's (ADEQ's) final rulemaking effective December 20, 1999. ADEQ

incorporated 40 Code Of Federal Regulations (CFR) 64 (the Federal Compliance Assurance Monitoring (CAM) rules) into Arizona air quality rules. ADEQ clarified existing language concerning significant revisions for Title V sources, so that CAM will be implemented the same way in Arizona as in the rest of the country, and modified the definition of major source, due to the Environmental Protection Agency's (EPA's) expected action extending interim Part 70 approval for Arizona beyond the current June 1, 2000 expiration date. ADEQ also made minor technical changes in the Permit Application Processing Procedures section.

Maricopa County is proposing to revise the following sections in Rule 210 in order to match ADEQ's proposed final rulemaking effective December 20, 1999 and in order to make Rule 210 more easily understood by the reader. These changes will be discussed at Maricopa County's Public Workshop scheduled for June 15, 2000.

Rule 210 (Title V Permit Provisions) Section Changes:

- Deleting Section 103 (Effective Date Of This Rule)
- Changing "pursuant to" to "under" in Subsection 301.1 and throughout Rule 210
- Deleting "is one that satisfies" to "shall comply with" in Subsection 301.4. Change matches ADEQ's R18-2-304(E). Per ADEQ's explanation in its Notice Of Final Rulemaking effective December 20, 1999: "ADEQ modified R18-2-304 (Permit Application Processing Procedures) per a request from EPA in a comment on a previous proposed Title V-related rule that was published in the November 28, 1997 Arizona Administrative Register. In response to that comment, ADEQ amended R18-2-320(D) (Significant Permit Revisions) to provide that when an existing source applied for a significant permit revision to revise its permit from a Class II Permit (Non-Title V Permit) to a Class I Permit (Title V Permit), the source would be required to submit a Class I Permit (Title V Permit) application, in accordance with R18-2-304 and have its entire permit reissued. However, ADEQ was unable to amend R18-2-304, at that time, because no change to R18-2-304 has been proposed. The change to R18-2-304, in this rule, clarifies that the permit application for the above change, to be complete, must cover the entire source and not just the change that may have caused the source to require a Class I Permit (Title V Permit)."
- Deleting "applications, deleting "only if it is", deleting "such" and adding "(Standard Application Form And Required Information)", adding "only", adding "unless the source's proposed permit revision will change the permit from a Non-Title V Permit to a Title V Permit", adding "subsection", and adding "(Certification Of Truth, Accuracy, And Completeness)" in Subsection 301.4(a). Changes match ADEQ's R18-2-304(E)(1). Per ADEQ's explanation in its Notice Of Final Rulemaking effective December 20, 1999: "ADEQ modified R18-2-304 (Permit Application Processing Procedures) per a request from EPA in a comment on a previous proposed Title V-related rule that was published in the November 28, 1997 Arizona Administrative Register. In response to that comment, ADEQ amended R18-2-320(D) (Significant Permit Revisions) to provide that when an existing source applied for a significant permit revision to revise its permit from a Class II Permit (Non-Title V Permit) to a Class I Permit (Title V Permit), the source would be required to submit a Class I Permit (Title V Permit) application, in accordance with R18-2-304 and have its entire permit reissued. However, ADEQ was unable to amend R18-2-304, at that time, because no change to R18-2-304 has been proposed. The change to R18-2-304, in this rule, clarifies that the permit application for the above change, to be complete, must cover the entire source and not just the change that may have caused the source to require a Class I Permit (Title V Permit)."
- Adding "of EPA" after "Administrator" in Subsection 301.5 and throughout Rule 210
- Adding "Subsection 304.2 (Action On Application And Notification Requirements) and Rule 240, Subsection 511.3(b) (Visibility Protection)" to Subsection 301.8(b)(3) and deleting "and Section 511.3(b) of this rule" from Subsection 301.8 (b)(3). Changes match ADEQ's R18-2-304(l)(2)(c).

- Changing “assure” to “ensure” in Subsection 302.1(c)(2)
- Adding “monitoring and analysis procedures or test methods under”, deleting “any, deleting “that are”, and changing “assure” to “ensure” in Subsection 302.1(c)(3). Changes match ADEQ’s R18-2-306(A)(3). Per ADEQ’s explanation in its Notice Of Final Rulemaking effective December 20, 1999: “The changes made in R18-2-306 mirror the changes EPA made to Part 70 in the Federal Compliance Assurance Monitoring (CAM) rule. On October 22, 1997 (62 Federal Register 54900), EPA promulgated new regulations and revised regulations to implement CAM for major stationary sources of air pollution required to obtain operating permits under Title V of the Clean Air Act of 1963. The regulations implement requirements concerning enhanced monitoring and compliance certification under the Act. Subject to certain exemptions, the new regulations require an owner or operator of such sources to conduct monitoring that satisfies particular criteria established in rule to provide reasonable assurance of compliance with applicable requirements under the Act. The monitoring is to focus on an emissions unit that relies on a pollution control device to meet an emission limit. Revisions to the operating permits program regulations in Part 70 clarified the relationship between Part 64 requirements and periodic monitoring and compliance certification requirements. ADEQ is implementing this Federal rule by incorporating 40 Code Of Federal Regulations (CFR) 64 by reference and amending its own operating permits program regulations at R18-2-306(A)(3).”
- Changing “analyses” to “analysis” and adding “name of the” in Subsection 302.1(d)
- Adding Subsection 302.1(h)(7) to address permit content provisions regarding any major source operating in the nonattainment area for PM₁₀. ADEQ does not have this provision in its rules (R18-2-306(A)(8)).
- Deleting, from Subsection 302.2, “The Control Officer shall specifically designate any terms and conditions included in the permit: a. That are not required under the Act nor under any of its applicable requirements; b. That are not federally enforceable under the Act; and c. That are federally enforceable under the Act” and adding “All terms and conditions in a Title V Permit shall be enforceable by the Administrator of the Environmental Protection Agency (EPA) and citizens under the Act, including any provisions designed to limit a source’s potential to emit. However, the Control Officer shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the Title V Permit that are not required under the Act or under any of its applicable requirements.” In May 1999 and in June 1999, Staff recommended that Subsection 302.2 be re-written. Proposed new text is a combination of text from ADEQ’s R18-2-306(B) and 40 Code Of Federal Regulations (CFR) 70.6(b)(2).
- Deleting Subsection 305.1(b)(1) and Subsection 305.1(b)(2) and referring to Subsection 302.1(d), because Subsection 302.1(d) has the same text as Subsection 305.1(b)(1) and Subsection 305.1(b)(2) (per Staff recommendation made July 13, 1998)
- Deleting “provided that”, changing “such” to “the”, deleting “permit”, changing “method” to “methods”, deleting “as possible exceptions to compliance, any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR 64 occurred”, and adding “each deviation and take it into account for consideration in the compliance certification. For emission units subject to 40 CFR 64, the certification shall also identify, as possible exceptions to compliance, any period during which compliance is required and in which an excursion or exceedance defined under 40 CFR 64 occurred” in Subsection 305.1(d)(3). Changes match ADEQ’s R18-2-309(2)(c). Per ADEQ’s explanation in its Notice Of Final Rulemaking effective December 20, 1999: “The changes made in R18-2-309 mirror the changes EPA made to Part 70 in the Federal Compliance Assurance Monitoring (CAM) rule. On October 22, 1997 (62 Federal Register 54900), EPA promulgated new regulations and revised regulations to implement

CAM for major stationary sources of air pollution required to obtain operating permits under Title V of the Clean Air Act of 1963. The regulations implement requirements concerning enhanced monitoring and compliance certification under the Act. Subject to certain exemptions, the new regulations require an owner or operator of such sources to conduct monitoring that satisfies particular criteria established in rule to provide reasonable assurance of compliance with applicable requirements under the Act. The monitoring is to focus on an emissions unit that relies on a pollution control device to meet an emission limit. Revisions to the operating permits program regulations in Part 70 clarified the relationship between Part 64 requirements and periodic monitoring and compliance certification requirements. ADEQ is implementing this Federal rule by incorporating 40 Code Of Federal Regulations (CFR) 64 by reference and amending its own operating permits program regulations at R18-2-309."

- Deleting "for", deleting "permits", deleting "as well", and adding "Permit compliance certifications shall also be submitted" in Subsection 305.1(d)(4). Changes match ADEQ's R18-2-309(2)(d).
- Deleting "such", deleting "as may be", and adding "or under Rule 220, Section 304 (Permits Containing Voluntarily Accepted Emissions Limitations, Controls, Or Other Requirements (Synthetic Minor)) of these rules" in Subsection 305.1(d)(5). Changes match ADEQ's R18-2-309(2)(e).
- Adding "Any source that is making the change immediately after it files the application" to Subsection 405.3(b). Change matches ADEQ's R18-2-319(D)(2) effective September 22, 1999. Per ADEQ's explanation in its Notice Of Final Rulemaking effective September 22, 1999: "Although the standard procedure is to wait until the permit is revised to implement the change at the facility, an alternative option is maintained whereby the facility can implement the change immediately, concurrent with filing the application for a minor permit revision. This alternative existed in the former rule."
- Deleting "procedure", deleting "applications", deleting "revisions", deleting "do", and adding "A significant permit revision that is only required because of a change described in subsection 405.1(f) or subsection 405.1(g) of this rule shall not be considered a significant permit revision under Part 70 for the purposes of 40 CFR 64.5(a)(2)" in Subsection 406.1. Changes match ADEQ's R18-2-320(A). Per ADEQ's explanation in its Notice Of Final Rulemaking effective December 20, 1999: "The changes to R18-2-320 will help to assure that Compliance Assurance Monitoring (CAM) is implemented the same way in Arizona as the rest of the country. As part of the schedule for implementing CAM, 40 Code Of Federal Regulations (CFR) 64.5 requires certain sources applying "for a significant permit revision under Part 70", to submit proposed Part 64 monitoring to the permitting authority as part of the application. ADEQ's proposed amendments to R18-2-320 would clarify that 2 Arizona-specific triggers for significant revisions (added by ADEQ to its Class I (Title V) Permit rules but not significant revisions under the Federal Part 70) do not trigger the Part 64 submittal requirement. With this clarification, changes in fuels not described in the permit and increases in potential to emit greater than "significant" would continue to require significant revisions for Class I (Title V) sources but could not be construed as a "significant revision under Part 70", triggering the CAM information submittal requirement in 40 CFR 64.5(a)(2). This clarification will prevent Arizona sources from being required to comply with CAM earlier than they would, if they were outside of Arizona. Arizona Part 70 sources making either of these 2 changes would still need a significant revision under Arizona rules and would still be subject to any other triggered applicable requirement."
- Changing "all" to "any" and adding "a" to Subsection 406.2. Changes match ADEQ's R18-2-320(C), except ADEQ's R18-2-320(C) does not have, as the last sentence: "A physical change to a source or change in the method of operation of a source that complies with Section 112(g)(1) of the Act shall be a modification required to be

processed under this rule but not for the purposes of requiring maximum achievable control technology (MACT) as defined in Rule 370 of these rules”.

- Deleting “applications” and “as they” and adding “of EPA” and “that” to Subsection 406.4. Changes match ADEQ’s R18-2-320(D).
- Adding “received each calendar year” and adding “Applications for which the Control Officer undertakes the accelerated permitting process, under Rule 200, Section 313 of these rules, shall not be included in this requirement. Subsection 406.5 of this rule does not change any time-frame requirements in Section 301 of this rule” to Subsection 406.5. Changes match ADEQ’s R18-2-320(F).
- Adding “(Emergency Orders)” to Subsection 407.2(a). Change matches ADEQ’s R18-2-325(B)(1).
- Changing “Rule 200” to “Rule 100” in Subsection 408.4(j)
- Adding “a statement” to Subsection 408.4(k)
- Adding “Section 500 – Monitoring And Records (Not Applicable)” as the heading to Section 500

The revisions proposed to Rule 240 correspond with the Arizona Department Of Environmental Quality’s (ADEQ’s) changes to New Source Review (NSR) regulations in Title 18 (Environmental Quality), Chapter 2 (Department Of Environmental Quality-Air Pollution Control), Article 4 (Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources), effective September 22, 1999. Maricopa County is also proposing to add a mobile source emission reduction credit (MERC) provision to Rule 240 – new Subsection 306.13. The text of new Subsection 306.13 is based-on San Diego’s Rule 27.

ADEQ revised Article 4 because the Phoenix ozone nonattainment area was reclassified as a serious ozone nonattainment area. In addition, ADEQ revised Article 4 to address the Environmental Protection Agency’s (EPA’s) written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules.

ADEQ modified the definition of major source, such that changes at minor sources in the Phoenix ozone nonattainment area, in addition to increasing emissions above the major source threshold, would have to be significant in order for the change to subject the source to NSR. The change makes ADEQ’s rule more closely parallel to the Federal NSR program for serious and severe ozone nonattainment areas. The major source threshold for volatile organic compound (VOC) sources in the Phoenix ozone nonattainment area was automatically reduced from 100 tons to 50 tons on December 8, 1997, when the areas was reclassified from moderate to serious.

In addition, ADEQ removed the requirement that creditable emission decreases must be simultaneous to the modification. This change is consistent with the current Federal 5-year contemporaneous period, which takes into account changes over a 5-year period when considering increases and decreases for netting (i.e., when adding-up emission increases and decreases to determine whether the net emission increase is 25 tons (significant)). This change also encourages sources to make facility changes that decrease emissions earlier than they would otherwise, because the decrease will count against emission increases for 5 years, not only when simultaneous with the change.

ADEQ added a de minimis or trivial increase/decrease level for aggregation purposes. For discussion and comment in May 1998, ADEQ proposed a range of levels: 1 ton, 2 tons, and 3 tons. After further discussion and comment and based on action taken on other State rules, ADEQ decided that only the 1 ton level would be approvable by EPA.

Maricopa County is proposing to revise the following sections in Rule 240 in order to match ADEQ’s changes to its NSR regulations in Title 18 (Environmental Quality),

Chapter 2 (Department Of Environmental Quality-Air Pollution Control), Article 4 (Permit Requirements For New Major Sources And Major Modifications To Existing Major Sources) effective September 22, 1999, to address EPA's written comments dated July 10, 1998, regarding the New Source Review/Prevention Of Significant Deterioration (NSR/PSD) Permit Rules, and to add a mobile source emission reduction credit (MERC) provision. These changes will be discussed at Maricopa County's Public Workshop scheduled for June 15, 2000.

Rule 240 (Permits For New Major Sources And Major Modifications To Existing Major Sources) Section Changes:

- Changing "which" to "that" in Section 201
- Changing "combination" to "combinations" and changing "exceed" to "more than" in Section 202
- Changing, in Section 204, "which" to "that", putting back-in the original text "After July 8, 1985, such", and putting back-in the original text, "Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Control Officer shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source, owner or operator, that merging was not significantly motivated by such intent, the Control Officer shall deny credit for the effects of such merging in calculating the allowable emissions for the source". Per ADEQ's explanation in its Notice Of Final Rulemaking effective September 22, 1999: "ADEQ reached the preliminary conclusion that the missing text (text that Maricopa Count is returning to Rule 240, Section 204) dealing with merging of exhaust streams prior to July 8, 1985, is probably an oversight. However, this issue was never discussed in any workshops on this rule since 1995 and adding language at this late state is not appropriate without full notice and comment. ADEQ will open a docket to propose adding this language within 30 days after this rule is approved". ADEQ published, on November 19, 1999, a Notice Of Rulemaking Docket Opening regarding this issue. When ADEQ completes such rulemaking, Rule 240, Section 204 will match ADEQ's R18-2-401(4).
- Changing, in Section 209, "which" to "that", changing "such" to "the", changing "pursuant to" to "under", and deleting "as contained in". Changes match ADEQ's R18-2-401(8) effective September 22, 1999.
- Changing, in Section 210, "which" to "that", adding "except for VOC or NO_x emission increases at minor sources in serious or severe ozone nonattainment areas", and adding "any change in VOC or NO_x at a minor source in serious or severe ozone nonattainment areas that would be significant as described in subsection 307.2 of this rule and that would increase its emissions to the qualifying levels in subsection 210.1 of this rule". Changes match ADEQ's R18-2-401(9). Per ADEQ's explanation in its Notice Of Final Rulemaking effective September 22, 1999: "ADEQ modified the definition of major source, so that changes at minor sources in the Phoenix ozone nonattainment area, in addition to increasing emissions above the major source threshold, would have to be "significant", as defined in R18-2-405(B) (Special Rule For Major Sources Of VOC Or Oxides Of Nitrogen In Ozone Nonattainment Areas Classified As Serious Or Severe), in order for the change to subject the source to New Source Review (NSR). The change makes ADEQ's rule (and likewise Maricopa County's rule) more closely parallel the Federal NSR program for serious and severe ozone nonattainment areas."
- Changing "where" to "if" in Section 211
- Adding the definition of resource recovery project to Section 212. Definition matches ADEQ's R18-2-401(11).

- Changing “such” to “the”, changing “standard” to “standards”, changing “is” to “are”, and deleting “then” in Section 214. Changes match ADEQ’s R18-2-410(12).
- Adding “more than” in Section 303. Change matches ADEQ’s R18-2-402(C).
- Changing “In addition to or in lieu of the requirements of Rules 200, 210, 240, 245, and 270 of these rules” to “Unless the requirement has been satisfied under these rules” in Section 304. Change matches ADEQ’s R18-2-402(D).
- Adding “The issuance of a permit or permit revision under this rule shall not relieve the owner and/or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements pursuant to local, State, or Federal law” as new Subsection 305.8. ADEQ’s rules do not have such a provision. New Subsection 305.8 is being proposed, per EPA’s recommendation in its NSR/PSD Permit Rules written comments dated July 10, 1998: “There is nothing in this rule stating that approval to construct does not relieve owner from complying with these regulations. This requirement is listed in Subsection 308.7 of this rule, but that section only applies to sources in attainment areas. The same requirement should also be included in Section 305, which applies to sources in nonattainment areas.”
- Adding “Within 30 days of the issuance of any permit under this section, the Control Officer shall submit control technology information from the permit to the Administrator of EPA for the purposes listed in Section 173(d) of the Act” as new subsection 305.9. Addition matches ADEQ’s R18-2-403(H).
- Leaving Subsection 306.2 as written. Although this original text does not match ADEQ’s R18-2-404(B) (Offset And Net Air Quality Benefit Standards), this original text was written in 1993 per EPA recommendations.
- Adding “pounds-per quarter, tons-per-quarter” to Subsection 306.9. This addition does not match ADEQ’s R18-2-404(I) effective September 22, 1999. However, EPA agrees-with this addition to Maricopa County’s rule.
- Adding, in Subsection 306.12, “at the time of permit issuance”, deleting “by the time such source or modification commences operation”, deleting “or is adopted as a part of these rules or comparable rules and regulations of any other governmental entity”, deleting “The permit conditions or rules containing, governing, or otherwise describing the emission reduction have been approved by the Administrator for inclusion in the State Implementation Plan (SIP) adopted pursuant to Section 110 of the Act”, and adding “The emission reduction is adopted as a part of this rule or comparable rules of any other governmental entity or is contractually enforceable by the Control Officer and is in effect at the time the permit is issued”. Per ADEQ’s explanation in its Notice Of Final Rulemaking effective September 22, 1999: “ADEQ is changing R18-2-404(L) (comparable to Maricopa County’s Subsection 306.12) to deal with the ambiguity in Section 173(a)(1)(A) of the Clean Air Act that relates to the requirement that increases in emission caused by new or modified sources must be offset by decreases in emissions from existing sources. The ambiguity derives from the fact that this section (R18-2-404) proposes 2 different time-frames for when these emission reductions must be in effect; Emission reductions must be secured at the time of permit issuance.”
- Adding new Subsection 306.13. New Subsection 306.13 describes the elements of a mobile source emission reduction credit (MERC) program that would be part-of the applicable State Implementation Plan (SIP). The idea of the MERC Program is to allow a stationary source with a Title V Permit to voluntarily use its mobile source(s) emission reductions as offset(s). In the future, Maricopa County anticipates writing an individual MERC rule that will include more specific standards and requirements of a MERC Program. By adding new Subsection 306.13 now, Maricopa County’s Rule 240 will not match ADEQ’s rules; ADEQ does not have provisions in its rules for a MERC Program. However, Maricopa County believes that new Subsection 306.13 is necessary to address a peculiar local condition, is technically and economically feasible, and is not being proposed/adopted in lieu of a State program. (These

conditions meet the requirements of Arizona Revised Statutes (ARS) §49-112(A) and §49-112(B)).

- Changing, in Subsection 307.2, “stationary” to “major”, adding “or for determining whether an otherwise minor source is major under Section 210 (Definition Of Major Source) of this rule”, changing “changes or changes” to “change or change”, adding “and decreases”, changes “prior five” to “previous 5”, deleting “Emissions decreases shall only be creditable, if they are simultaneous with the proposed modification”, and adding “For the purposes of Section 307 of this rule, a physical change or change in the method of operation, that results in an increase of less than 1 ton per year of VOC or oxides of nitrogen before netting, does not trigger a 5-year aggregation exercise”. Per ADEQ’s explanation in its Notice Of Final Rulemaking effective September 22, 1999: “ADEQ is changing R18-2-405(B) (comparable to Maricopa County’s Subsection 307.12) to remove the requirement that creditable emission decreases must be “simultaneous” to the modification. This change is consistent with EPA’s latest interpretation and traditional major source New Source Review (NSR). Creditable emission decreases are used in “netting” or adding-up emission increases and decreases to determine whether the net emission increase is 25 tons (significant). The change makes R18-2-405(B) consistent with the current Federal 5-year “contemporaneous” period, which takes into account changes over a 5-year period when considering increases and decreases for netting. The change also encourages sources to make facility changes that decrease emissions earlier than they would otherwise, because the decreases will count against emission increases for 5 years, not only when simultaneous with the change. The 5-year contemporaneous time-frame already applies to the definition of net emission increase in R18-2-101(69) (comparable to Maricopa County’s Rule 100, Section 200.66). By adding a “de minimis” or “trivial increase” level for aggregation purposes, ADEQ further clarified R18-2-405. Aggregation refers to the adding-up of emission changes to determine whether a source has reached the significance level of 25 tons. Based on action taken on other State rules, ADEQ believed that the 1 ton level would be approvable by EPA.”
- Changing, in Subsection 307.3, “stationary” to “major”, deleting “from any discrete emissions unit, operation, or other pollutant emitting activity”, adding “except that”, adding “from any discrete emissions unit, operation, or other pollutant emitting activity that”, adding “respectively”, adding “shall not be considered part of the major modification”, deleting “within the facility only. If such a change qualifies as a major modification pursuant to this rule”, adding “Best available control technology (BACT)”, and adding “for all major modifications under this section”. In previous drafts of Rule 240, Maricopa County proposed adding the following sentence, as the last sentence in Subsection 307.3: “Emissions associated with trivial activities, as defined in Rule 100 of these rules, shall not be used in netting calculations”. In this draft, Maricopa County is not adding this sentence, because ADEQ is not adding this sentence. Per ADEQ’s explanation in its Notice Of Final Rulemaking effective September 22, 1999: “ADEQ did not add this sentence because discussion at workshops after May 8, 1998 focused on ADEQ proposing several “tons per year” rates to establish a trivial level to be implemented in R18-2-405(B). A tons per year approach is preferable to one based on trivial activities, because it is not clear that only excluding emissions associated with trivial activities would produce any benefit for most sources. It also allows ADEQ and EPA to better document compliance with the Federal New Source Review (NSR) program.”
- Deleting, in Subsection 307.4, “from any discrete emitting unit, operation, or other pollutant emitting activity”, adding “at any discrete emissions unit, operation, or other pollutant emitting activity”, and adding “at the unit, operation, or activity”. In previous drafts of Rule 240, Maricopa County proposed adding the following sentence, as the last sentence in Subsection 307.4: “Emissions associated with trivial activities, as defined in Rule 100 of these rules, shall not be used in netting calculations”. In this draft, Maricopa County is not adding this sentence, because ADEQ is not adding this

sentence. Per ADEQ's explanation in its Notice Of Final Rulemaking effective September 22, 1999: "ADEQ did not add this sentence because discussion at workshops after May 8, 1998 focused on ADEQ proposing several "tons per year" rates to establish a trivial level to be implemented in R18-2-405(B). A tons per year approach is preferable to one based on trivial activities, because it is not clear that only excluding emissions associated with trivial activities would produce any benefit for most sources. It also allows ADEQ and EPA to better document compliance with the Federal New Source Review (NSR) program."

- Changing "which" to "that", changing "as such" to "major", and changing "such" to "the" in Subsection 307.5. Changes match ADEQ's R18-2-405(E).
- Changing "which" to "that", changing "such" to "the", and changing "all such" to "these" in Subsection 307.6. Changes match ADEQ's R18-2-405(F).
- Adding "Section 400 – Administrative Requirements (Not Applicable)" as the heading to Section 400
- Changing "Arizona" to "national" in Subsection 502.1. EPA, in its written comments dated July 10, 1998, stated that, as originally written, Subsection 502.1 was inconsistent with the Code Of Federal Regulations (CFR), since Subsection 502.1 refers to Arizona ambient air quality standards rather than to national ambient air quality standards.
- Changing "an Arizona" to "a national" in Subsection 502.2. EPA, in its written comments dated July 10, 1998, stated that, as originally written, Subsection 502.2 was inconsistent with the Code Of Federal Register (CFR), since Subsection 502.2 refers to Arizona ambient air quality standards rather than to national ambient air quality standards.

The revisions proposed to Rule 300 are intended to match Maricopa County Air Pollution Control Regulations Rule 130 (Emergency Provisions) and Rule 140 (Excess Emissions). Maricopa County deleted Section 501 (Emergency Provision) and Section 502 (Excess Emissions) from Rule 100 and wrote each section as an individual rule; Rule 100, Section 501 became Rule 130 and Rule 100, Section 502 became Rule 140.

Maricopa County is proposing to revise the following sections in Rule 300 in order to match Maricopa County Air Pollution Control Regulations Rule 130 (Emergency Provisions) and Rule 140 (Excess Emissions). Maricopa County will discuss, during the Public Workshop scheduled for June 15, 2000, the following Rule 300 significant issues and the following listed Rule 300 section changes:

Rule 300 Significant Issues:

- Re: Section 102 (Applicability): Per Stakeholder's written comments, Rule 300 should apply only to sources for which no source-specific opacity requirements apply. Maricopa County should delete opacity requirements from all other Maricopa County Air Pollution Control Rules And Regulations and should put them in Rule 300. In draft Rule 300, Section 102 (Applicability) – June 15, 2000, Maricopa County is proposing that Rule 300 apply to visible emissions from sources for which no source-specific opacity requirements apply, except for those sources described in Section 302 (Exceptions).
- Re: Subsection 302.1 (Exceptions-Startup And Shutdown):
 - Per the Environmental Protection Agency (EPA), Maricopa County should delete Subsection 302.1. It might be appropriate, in consultation with EPA, to create narrowly tailored exceptions that allow for technology limitations during startup and shutdown for specific source categories. In draft Rule 300 – June 15, 2000, Maricopa County is proposing to delete Subsection 302.1. Technology limitations during startup and shutdown for source-specific categories should be addressed in agreements that will be reached regarding excess emissions.

- Per Stakeholder's written comments, Maricopa County should not delete Subsection 302.1. Maricopa County should develop an appropriate exception in Rule 300 that would be tailored to avoid encouraging poor operating or maintenance practices. In draft Rule 300 – June 15, 2000, Maricopa County is proposing to delete Subsection 302.1. Technology limitations during startup and shutdown for source-specific categories should be addressed in agreements that will be reached regarding excess emissions.
- Re: Subsection 302.2 (Exceptions-Emergencies): Per the Environmental Protection Agency (EPA), Maricopa County should delete Subsection 302.2, because Subsection 302.2 might excuse emissions that cause or contribute to a violation of an ambient air quality standard. Emergency excess emissions should be treated with Control Officer enforcement discretion. In draft Rule 300 – June 15, 2000, Maricopa County is proposing to delete Subsection 302.2. Emergency excess emissions are addressed in Maricopa County's Rule 130 (Emergency Provisions).
- Re: Section 502 (Compliance Determination-Opacity Of Visible Emissions From Intermittent Sources): Per the Environmental Protection Agency (EPA), Maricopa County should add language to Rule 300's opacity test method that is similar to language in Maricopa County's Appendix C, Subsection 3.3.2(d). (Appendix C describes test methods associated with Rule 310 (Fugitive Dust Sources)) The added language should indicate that an "x" should be placed on the opacity recording sheet, when the activity being observed ceases. The "x's" are considered interrupted readings (but still consecutive), would not appear in the average, and would not lower it appropriately. There should be 24 consecutive readings as in EPA Method 9, which is the opacity method cited in Rule 300. In draft Rule 300 – June 15, 2000, Maricopa County is not proposing to add language, as recommended by EPA. The language, as proposed by EPA, is already described in Method 9, which Rule 300 references.

Rule 300 (Visible Emissions) Section Changes:

- Deleting "resulting from the discharge of any air contaminant into the ambient air except as provided in Section 302 of this rule" and adding "from sources for which no source-specific opacity requirements apply. Exceptions to the rule are described in Section 302 of this rule" in Section 102 (Applicability). See Rule 300 Significant Issues above.
- Changing "cycling" to "phasing out" in Section 204 (Definition Of Shutdown). Change matches ADEQ's R18-2-101(103).
- Changing "cycling" to "phasing in" in Section 205 (Definition Of Startup). Change matches ADEQ's R18-2-101(108).
- Deleting in its entirety Subsection 302.1 (Exceptions-Startup And Shutdown). See Rule 300 Significant Issues above.
- Deleting in its entirety Subsection 302.2 (Exceptions-Emergencies). See Rule 300 Significant Issues above.
- Adding "Emergency Diesel Generators (EDGs): When emergency diesel generators (EDGs) must run to meet the requirements legally imposed by the Nuclear Regulatory Commission, a person may discharge air contaminants, other than uncombined water, in excess of the applicable opacity limit in Section 301 of this rule. Any discharge of air contaminants, other than uncombined water, in excess of the applicable opacity limit in Section 301 of this rule should not contribute to a violation of the national ambient air quality standard" as new Subsection 302.2 (Exceptions-Emergency Diesel Generators (EDGs)). Per Stakeholder's written comments, Rule 300 should not apply to emergency diesel generators that must run to meet requirements legally imposed by the Nuclear Regulatory Commission.
- Adding "Firing Of Ordnance At Test Facilities: Visible emissions exceeding the opacity standards for short periods of time resulting from firing test rounds in enclosed bunkers at ordnance test facilities which do not exceed 6 minutes in length shall not constitute a violation of Section 301 of this rule" as new Subsection 302.3 (Exceptions-Firing Of

Ordnance At Test Facilities). Per Stakeholder's written comments, Rule 300 should not apply to the special research and development of large caliber cannons.

- Adding "Opacity Training: Equipment or processes used to train individuals in opacity observations shall be exempt from opacity standards during the preparation for and/or during the actual training session(s)" as new Subsection 302.4 (Exceptions-Opacity Training). Per Stakeholder's written comments, Rule 300 should not apply to opacity training and/or to opacity training equipment.
- Adding "Section 400 – Administrative Requirements (Not Applicable)" as the heading for Section 400
- Adding "of visible emissions" to Section 502

6. **A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this State:**

Not applicable.

7. **A reference to any study that the agency proposes to rely on its evaluation of or justification for the proposed rules and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

Not applicable.

8. **The preliminary summary of the economic, small business, and consumer impact:**

The proposed revisions to Rule 210 should not have an economic impact on businesses in Maricopa County and should not impose additional costs on the regulated community, small businesses, political subdivisions, and members of the public. There are no additional costs to the regulated community when an agency incorporates an already effective Federal standard. Compliance costs were triggered by the Federal rule and they were considered when the Federal regulation was proposed and adopted (see 62 Federal Register 54938-54940, October 22, 1997).

The additional language in Rule 210, Section 406 (Significant Permit Revisions) should reduce compliance costs, because monitoring, recordkeeping, and reporting burdens will be reduced on agencies, political subdivisions, and businesses, and should reduce the cost of implementation and enforcement by Maricopa County.

Since the Phoenix ozone nonattainment area was reclassified as a serious ozone nonattainment area, changes are being proposed to the definition of major source. Under the former rules, any emissions increase that put a major source above the major source threshold (even a small increase) subjected the source to the lengthy NSR/PSD permitting process. Thus, a 1 ton increase from 99 tons to 100 tons of VOC per year would have pushed a source into a time-consuming and extremely costly exercise, with the permittee having to spend up-to tens of thousands of dollars for a permit revision incorporating changes in its facility to implement new requirements. With the proposed revisions to Rule 240, an emissions increase of VOC or nitrogen oxides (NOx) in a serious or severe ozone nonattainment area (where the major source threshold is already lowered to either 50 tons or 25 tons, respectively) would have to be a "significant" amount, as defined in Rule 240, in addition to causing the source to exceed the major source threshold, before the source would be subjected to the NSR/PSD process. Rule

240 as proposed defines a significant increase at 25 tons, adding up all increases and decreases over the last 5 years, when triggered by a net increase greater than 1 ton.

The change eliminating the requirement for creditable emission decreases to be "simultaneous" with any modification gives the permittee greater operational and financial flexibility in planning for and executing modifications. It also benefits the environment by ending the incentive for a source to delay innovation and emission reductions until it needs to make an increase, so as not to forego the reduction for netting purposes.

The proposed revisions to Rule 240 allow certain sources to avoid the complex and costly analysis required by major NSR. Avoiding NSR not only saves tens of thousands of dollars and months of time in permitting resources, but also can save capital expenditures at the source into the millions of dollars by avoiding best available control technology (BACT) or lowest achievable emission rate (LAER).

All of the proposed revisions to Rule 240 are designed to streamline the permitting process, clarify the various requirements for emissions reduction, and achieve operational cycle time reductions in key permitting process, thus reducing the costs to the permittee. Consequently, benefits will accrue to some permittees, although it is not possible to quantify these benefits in dollar terms.

The proposed revisions to Rule 300 resolve issues raised by the Environmental Protection Agency (EPA) that pertain to Arizona's Title V Permitting Program (see 61 Federal Register 55910, October 30, 1996). The proposed revisions to Rule 300 will impact all sources and should provide cost-saving benefits for all sources, but major sources will probably be impacted the most and will probably benefit the most.

If the proposed revisions to Rule 300 are not implemented and submitted to EPA in 2000, Maricopa County may lose its authority to issue Title V Permits. In this case EPA would become the permitting authority under 40 CFR 71. Since Maricopa County would still be involved with sources in other permitting programs, sources may be subject to "dual regulation". EPA, in addition, would have authority to establish and collect fees from regulated sources.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Johanna M. Kuspert or Jo Crumbaker, Air Quality Division
Address: 1001 North Central Avenue, Suite #201, Phoenix, AZ 85004
Telephone Number: 602-506-6710 or 602-506-6705
Fax Number: 602-506-6179
E-Mail Address: jkuspert@mail.maricopa.gov or jcrumbak@mail.maricopa.gov

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

Public Workshop: Thursday, June 15, 2000 at 9 am
Maricopa County Environmental Services Department
5th Floor Conference Room #560
1001 North Central Avenue, Phoenix, Arizona 85004

Call 602-506-0169 for current information. Copies of the draft rules will be available at least one week prior to the Public Workshop for public inspection at the offices of the Maricopa County Environmental Services Department, Air Quality Division, 1001 N. Central Ave., #201, Phoenix, Arizona, 85004, Phone 602-506-6794, and on the Internet at <http://www.maricopa.gov/sbeap>. Written comments regarding the rules discussed at the Public Workshop are due by 5 p.m. on the Friday two weeks following the Public Workshop, unless otherwise noted. A sign language interpreter, alternative form materials, or infrared assistive listening devices will be made available upon request with 72 hours notice. Additional reasonable accommodations will be made available at the Public Workshop to the extent possible within the time frame of the request. Requests should be made to 602-506-6794.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rules or class of rules:**

Not applicable.

12. **Incorporations by reference and their location in the rules:**

None.

13. **The full text of the rules follows:**

Due to the size of the rulemaking package, the rules are located in separate documents.